

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Weiner, *et. al.* **Confirmation No.** 2255
Serial No.: 10/560,650 **Group Art Unit:** 1632
Filed: May 9, 2006 **Examiner:** Wu Cheng Winston Shen
Title: **NUCLEIC ACID SEQUENCES ENCODING AND COMPOSITIONS
COMPRISING IGE SIGNAL PEPTIDE AND/OR IL-15 AND METHODS
FOR USING THE SAME**

DECLARATION OF DAVID B WEINER

I, David B. Weiner, hereby declare:

1. I am co-inventor of subject matter claimed in the United States Patent Application Serial No. 10/560,650, which entered the U.S. national stage on May 9, 2006, entitled NUCLEIC ACID SEQUENCES ENCODING AND COMPOSITIONS COMPRISING IGE SIGNAL PEPTIDE AND/OR IL-15 AND METHODS FOR USING THE SAME. The three co-inventors of claims in Serial No. 10/560,650 are Drs. Jean D. Boyer, Andrew Choo, Michele Kutzler and Joo-Sung Yang.

2. I am also co-inventor of subject matter claimed in the United States Patent Application Serial No. 10/518,701, which entered the U.S. national stage on September 1, 2005, entitled Vaccines for Suppressing IgE-mediated Allergic Disease and Methods for Using the Same. The three co-inventors of claims in Serial No. 10/518,701 are Drs. Arnold I. Levine, Sandra Calarota and Miquel Otero.

3. United States Patent Application Serial No. 10/518,701 discloses a genetic construct that encode fusion proteins comprising the human IgE signal peptide fused to a target protein comprising at least a portion of human membrane IgE protein (see for example paragraph 77 of the published application). United States Patent Application Serial No. 10/518,701 also discloses genetic constructs that encode fusion proteins comprising the IgE signal peptide fused to an immunomodulating protein (see for example paragraph 55 of the published application).

4. Prior to the effective filing date for United States Patent Application Serial No. 10/518,701 of I June 20, 2002, my co-inventors in United States Patent Application Serial No. 10/560,650 and I conceived of genetic construct that encode fusion proteins comprising the IgE signal peptide fused to no-IgE protein from the same species.

5. The subject matter disclosed in United States Patent Application Serial No. 10/518,701 which relates to genetic constructs that encode fusion proteins comprising the IgE signal peptide fused to an immunomodulating protein was conceived by my co-inventors in United States Patent Application Serial No. 10/560,650 and me. My co-inventors in United States Patent Application Serial No. 10/518,701 did not conceive of that subject matter.

6. The subject matter disclosed in United States Patent Application Serial No. 10/518,701 which relates to using genetic constructs that encode fusion proteins comprising the IgE signal peptide to enhance expression of a target protein was from the work by my co-inventors and me in United States Patent Application Serial No. 10/560,650. My co-inventors in United States Patent Application Serial No. 10/518,701 did not conceive of using IgE signal peptide in the fusion proteins disclosed in United States Patent Application Serial No. 10/518,701.

7. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued.

David B. Weiner

Date